

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
MARSHALL DIVISION**

SyncPoint Imaging, LLC,

Plaintiff,

vs.

Nintendo of America Inc., et al.,

Defendants.

No. 2:15-cv-00247-JRG-RSP

[Jury Trial Demanded]

**Defendants Nintendo of America Inc.'s and Nintendo Co., Ltd.'s
Notice of Pending Motion Which Might Appropriately Be Taken Up
Prior to Claim Construction Hearing**

The Claim Construction hearing in this case is scheduled for October 30, 2015. Nintendo of America Inc. and Nintendo Co., Ltd. (collectively, "Nintendo") believes that, in keeping with the interests of efficiency and conservation of judicial and party resources, and in accordance with recent Federal Circuit guidance, the Court should resolve pending preliminary matters in advance of the Claim Construction hearing. Specifically, Nintendo believes that, prior to the Claim Construction hearing, the Court should consider and decide Nintendo's Motion to Sever Retailer Defendants and to Transfer Remaining Claims to the Western District of Washington (D.I. 97), which is fully briefed and pending. In the event this case is going to be transferred to another district, which Nintendo contends is the appropri-

ate course of action, it would be best to have the Court that will actually try the case construe the patent.

Nintendo is aware of this Court's crowded docket and for that reason has been reluctant to bring up the fact that this preliminary threshold motion is ripe for determination. However, facing the upcoming claim construction hearing in 30 days, Nintendo concluded it was best to raise the issue at this time.

In the event the Court would like to hold a hearing on the above motion, or has questions to address with counsel, we will happily make ourselves available at the Court's earliest convenience either in person or by telephone.

Dated: September 30, 2015

Respectfully Submitted,

By: /s/ Clyde M. Siebman
Clyde M. Siebman

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CERTIFICATE OF SERVICE

The undersigned certifies that on this 30th day of September, 2015, all counsel of record who are deemed to have consented to electronic service are being served with a copy of this document through the Court's CM/ECF system under Local Rule CV-5(a)(3). Any other counsel of record will be served by a facsimile transmission and/or first class mail.

/s/ Clyde M. Siebman
Clyde M. Siebman